

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

SEARS HOLDINGS CORPORATION, *et al.*

Debtors¹

Case No. 18-23538 (RDD)

Chapter 11

(Jointly Administered)

**INFORMATIVE MOTION SUBMITTING CONTRACTS
BETWEEN PREPA AND SEARS**

TO THE HONORABLE COURT:

NOW COMES the Puerto Rico Electric Power Authority (“PREPA”), through its undersigned counsel, and very respectfully states and prays:

1. On May 27, 2020, PREPA filed its *Response to Debtors’ Request for Reclassification of PREPA’s Claim in Debtors’ Eighteenth Omnibus Objection to Proofs of Claim of Ballots* (the “Response”). See docket 7985. In said Response, PREPA requested that the

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are as follows: Sears Holdings Corporation (0798); Kmart Holding Corporation (3116); Kmart Operations LLC (6546); Sears Operations LLC (4331); Sears, Roebuck and Co. (0680); ServiceLive Inc. (6774); SHC Licensed Business LLC (3718); A&E Factory Service, LLC (6695); A&E Home Delivery, LLC (0205); A&E Lawn & Garden, LLC (5028); A&E Signature Service, LLC (0204); FBA Holdings Inc. (6537); Innovel Solutions, Inc. (7180); Kmart Corporation (9500); MaxServ, Inc. (7626); Private Brands, Ltd. (4022); Sears Development Co. (6028); Sears Holdings Management Corporation (2148); Sears Home & Business Franchises, Inc. (6742); Sears Home Improvement Products, Inc. (8591); Sears Insurance Services, L.L.C. (7182); Sears Procurement Services, Inc. (2859); Sears Protection Company (1250); Sears Protection Company (PR) Inc. (4861); Sears Roebuck Acceptance Corp. (0535); SR – Rover de Puerto Rico, LLC (f/k/a Sears, Roebuck de Puerto Rico, Inc.) (3626); SYW Relay LLC (1870); Wally Labs LLC (None); SHC Promotions LLC (9626); Big Beaver of Florida Development, LLC (None); California Builder Appliances, Inc. (6327); Florida Builder Appliances, Inc. (9133); KBL Holding Inc. (1295); KLC, Inc. (0839); Kmart of Michigan, Inc. (1696); Kmart of Washington LLC (8898); Kmart Stores of Illinois LLC (8897); Kmart Stores of Texas LLC (8915); MyGofer LLC (5531); Rover Brands Business Unit, LLC (f/k/a Sears Brands Business Unit Corporation) (4658); Sears Holdings Publishing Company, LLC. (5554); Sears Protection Company (Florida), L.L.C. (4239); SHC Desert Springs, LLC (None); SOE, Inc. (9616); StarWest, LLC (5379); STI Merchandising, Inc. (0188); Troy Coolidge No. 13, LLC (None); BlueLight.com, Inc. (7034); Sears Brands, L.L.C. (4664); Sears Buying Services, Inc. (6533); Kmart.com LLC (9022); Sears Brands Management Corporation (5365); and SRe Holding Corporation (4816). The location of the Debtors’ corporate headquarters is 3333 Beverly Road, Hoffman Estates, Illinois 60179.

Honorable Court deny the Debtors' objection as it pertains to Debtors' request to reclassify PREPA's administrative expense claim under section 503(b)(9) of the US Bankruptcy Code.

2. In its Response, PREPA also informed the Honorable Court that due to the COVID-19 pandemic, Puerto Rico has been under a stay-at-home order since March 15, 2020 and that the personnel of PREPA's Wholesale Department have been subject to the quarantine order, so PREPA had been unable to determine if there were written contracts for all, some, or none of Debtors' accounts with PREPA.

3. PREPA has been able to identify certain contracts for the supply of electric power service between PREPA and Sears and/or Kmart. PREPA hereby submits a copy of said contracts², which were previously submitted to Debtors' counsel on August 14, 2020.

4. The contracts between PREPA and Debtors' are for the supply of electric energy to the corresponding Sears and/or Kmart stores in Puerto Rico. Additionally, each contract states that they are in accordance with PREPA's General Terms and Conditions for the Supply of Electric Energy (the "GTCs") and that the purchase and sale of electric energy is subject to PREPA's GTCs. Therefore, they are subject to Puerto Rico law and since under Puerto Rico law electric energy is a "good", then electric energy or electricity generated, supplied, and consumed in Puerto Rico is a good and should qualify for administrative expense priority under section 503(b)(9). See e.g. In re Wometco de P.R., Inc., 2016 Bankr. LEXIS 119, *6 (Bankr. D. P.R. 2016).

WHEREFORE PREPA respectfully requests that the Honorable Court take notice of the above and deny the Debtors' Objection as it pertains to Debtors' request to reclassify PREPA's administrative expense claim under section 503(b)(9).

RESPECTFULLY SUBMITTED.

² Nine (9) of the contracts were originally written in Spanish, therefore PREPA is submitting a certified English translation of said documents.

Certificate of Service: I hereby certify that on October 12, 2020, I electronically filed a copy of this motion with the Clerk of the Court using the Court's CM/ECF system, which will send electronic notice of the same to all interested CM/ECF participants.

In San Juan, Puerto Rico on October 12, 2020.

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